

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Robert R. Shealy,

Plaintiff,

v.

Car Quest Auto Parts,¹

Defendant.

C/A No. 3:04-599-CMC-BM

ORDER

Plaintiff filed this action against his employer, Defendant Car Quest Auto Parts, claiming a violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621, as well as a state law cause of action for breach of contract. The case was originally filed in state court but was removed to federal court by Defendant based on Plaintiff's assertion of a violation of federal law, and also on diversity jurisdiction, 28 U.S.C. §§ 1331 and 1332(a). Defendant filed a motion for summary judgment pursuant to Rule 56, Fed. R. Civ. P. Plaintiff filed a memorandum in opposition to the summary judgment motion and Defendant filed a reply. In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Bristow Marchant for a Report and Recommendation. The April 22, 2005, Report of Magistrate Judge Marchant is currently before the court.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or

¹Defendant represents to the court that its proper name is actually General Parts, Inc., d/b/a Car Quest Auto Parts.

recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

Based on his review of the record, the Magistrate Judge has recommended that Defendant's motion for summary judgment be granted as to both of Plaintiff's causes of action, and that this case be dismissed. No objections have been filed to the Report and Recommendation and the time for doing so has expired.

After reviewing the Complaint, the motion and opposition, and the Report and Recommendation of the Magistrate Judge, the court agrees with the recommendation of the Magistrate Judge. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that Plaintiff's motion for summary judgment is **GRANTED** and this action *dismissed with prejudice*.

IT IS SO ORDERED.

S/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
May 20, 2005

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